EXHIBIT 434

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE: NATIONAL PRESCRIPTION OPIATE LITIGATION	:	MDL No. 2804
	:	Case No. 17-md-2804
APPLIES TO ALL CASES	:	Hon. Dan A. Polster

HIGHLY CONFIDENTIAL
SUBJECT TO FURTHER CONFIDENTIALITY REVIEW

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JANUARY 4, 2019

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VIDEOTAPED DEPOSITION OF ANTHONY MOLLICA, taken pursuant to notice, was held at Marcus & Shapira, One Oxford Center, 35th Floor, Pittsburgh, Pennsylvania 15219, by and before Ann Medis, Registered Professional Reporter and Notary Public in and for the Commonwealth of Pennsylvania, on Friday, January 4, 2019, commencing at 8:06 a.m.

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training in some way?

A. I can't imagine you could pass the state Board exam if you skip it.

Q. Does Giant Eagle make sure that the pharmacists when they're hired, they actually review these guidelines and are trained on them?

A. Yes. There's also computer-based monitoring that had attestations.

Q. In these so-called PMPs, like the OARRS system, are those in all of the Giant Eagle stores?

A. To my knowledge, yes.

Q. And are pharmacists --

A. I can't recall what the State of West Virginia was with that. I can't remember if they had electronic or some other system, but whatever West Virginia had, we were complying with that one. I don't want to say it was exactly like OARRS. Each state has a right to be a little different there.

Q. Are those a resource tool for the pharmacists to determine the legitimacy of prescriptions?

A. Yes.

Q. You were asked a lot of questions today

about so-called suspicious orders. But you talked about how Giant Eagle was self distributing.

A. Yes.

Q. In your understanding of Giant Eagle's integrated system, should there ever be a suspicious order?

A. That's what I was trying to say. I don't know by definition how you could have a suspicious order when the drugs are moving from the warehouse to a shelf that's also owned and operated by Giant Eagle.

That's why we have our -- our internal mechanisms could always -- you never have an opportunity where you can't check chain the custody in our system because it's a closed system to ourselves.

Q. Did Giant Eagle Pharmacies report their transactions to the DEA?

A. Which transactions?

Q. Filling prescriptions.

A. Yes.

Q. Did the DEA ever raise any questions with any of the Giant Eagle stores at any time?

A. I'm sure -- that's a little too vague. I'm sure they've had questions over time. If

you're saying specific to suspicious drug monitoring, not to my knowledge.

Q. You talked about the extensive of record keeping at the stores. I don't want to belabor that point. But with respect to the physical security of controlled substances, are they monitored from the moment they come in to the moment that they go out?

A. Yes.

Q. Are they kept in locked cabinets or vaults as necessary?

A. Which controlled substances?

Q. I'm talking about -- let's talk about opioids.

A. Opioids are kept in a locked cabinet.

Q. And who has the keys to that?

A. Only the pharmacist.

Q. And who can dispense opioids?

A. Only the pharmacist.

Q. Incoming orders, are they checked in and monitored closely and added to inventory?

A. Orders are -- for controls you're referring to? They're checked in in sealed containers for which you have to sign that you're the one opening the container. They're checked

into inventory, and then they're matched to the dispensing records.

Q. Are there regular and perpetual inventories of controlled substances including opioids?

A. Yes.

Q. And you mentioned the monthly so-called narc audits.

A. Yes.

Q. Is that where you actually physically recount controlled substances including opioids?

A. Yes.

Q. And there's an annual inventory; is that right?

A. That's correct.

Q. Do the pharmacists double count controlled substance prescriptions?

A. Yes. That's a policy of Giant Eagle.

Q. Do they back count them?

A. I do not know that means, back count.

Q. Well, making sure that the amount left in the bottle is what the inventory system says should be there.

A. That's correct.

Q. Did the Board of Pharmacy come in and do

audits from time to time?

A. Yes.

Q. The pharmacy district leaders, did they oversee stores in their area and do quarterly internal audits?

A. Yes.

Q. Including compliance audits?

A. Yes.

Q. Did they supervise the training of pharmacists?

A. Yes.

Q. Did they work with law enforcement and the Board of Pharmacy to deter diversion?

A. Yes.

Q. And criminal acts. Was there red flag awareness training for the pharmacists?

A. Be more specific. I'm not sure...

Q. Well, in the dispensing guidelines, the red flags to look for to see if a prescription is legitimate.

A. Oh, yes, yes.

Q. Did Giant Eagle have a loss prevention department?

A. Yes.

Q. With experienced diversion

investigators?

A. Yes.

Q. Did they spend a lot of time in the pharmacies?

A. Yes.

Q. Do they work with the local police and the Boards of Pharmacy and the DEA?

A. Yes.

Q. Did the pharmacists take any steps individually to flag scripts that they thought might be illegitimate?

A. Yes.

Q. Can you give us some examples?

A. If prescriptions didn't look like -- once again, you get intimate with your community, so you recognize physicians' signatures when they don't look right, if they're missing pieces of documentation, when there's obvious errors.

You would be very surprised at some of the whacky stuff that you see when the public tries to divert, spelling things wrong, not using the right Latin codes, missing numbers, unusual quantities or frequency, dates that look altered, those types of things, photocopies. There's all kinds of things that you can pick up on.

Q. And are Giant Eagle pharmacists trained to look for that kind of --

A. They're trained not just by the organization, but just in their general practice, too. You need to be in a pharmacy to know that Dr. Smith always writes controls on a blue pad and this one is yellow. You can't train that. But pharmacists do those things as part of local awareness as well as the tools that we provide from the company.

Q. Are there security cameras in all of the pharmacies?

A. I actually don't know. Yes, there are security cameras. Not for my entire run at Giant Eagle, but when I left, I'm pretty sure every one of them had security cameras.

Q. Are you aware of so-called BOLO notices, Be On The Lookout notices exchanged between the pharmacists?

A. Oh, they do that. Yeah. They do that a lot on their own. It's a very tight network.

Q. You mentioned daily counts of drugs. Did that include hydrocodone combination products when HBC distributed it when it was a Schedule III?

A. Daily counts?
Q. Yes.
A. Of which ones?
Q. Of the HCPs.
A. The combination products?
Q. Yes.
A. I don't know that daily counts were required in terms of physical counts. I don't recall. But you had a virtual inventory that every time you pulled the drug off the shelf, you had to verify. It that constitutes a physical count, I don't know.
Q. I want to direct your attention back to Exhibit 13. This is the Ohio Administrative Code, but its looks awfully similar to the DEA regulation. I want to direct your attention to (A), "All registrants shall provide effective and approved controls and procedures to deter theft and diversion..."
Do you know if that's almost identical to the DEA regulation on the same topic?
A. Likely to be, yes.
Q. All these factors that you go through, I want to go through some of these factors to determine whether you meet the security

requirement.

The type of activity conducted, HBC to your knowledge was a Schedule III, IV, V warehouse that never distributed controlled substance level IIs. Did you know that?

A. Yes. And noncontrols as well.

Q. And noncontrols.

A. That was the majority of what they distributed.

Q. And did it do branded and unbranded generics, or did it just do a piece of the IIIs, IVs, Vs?

A. It was just the generic portions of it. It was more meant as a generic warehouse, not --

Q. So would you say with respect to factor (B)(3) that the quantity of dangerous drugs handled, considering the fact that they were IIs when handled by HBC and the fact that they were only doing some of the generics, would you say that would be high or a low quantity of dangerous drugs being handled by HBCs?

MR. HUDSON: Object to the form.

THE WITNESS: I would say it would be low, a low quantity as compared to the overall ordering of a pharmacy. Even when pharmacies

would get their totes, you know, filled with drugs, the HBC ones were a different color. You might see one tote from HBC and 20, you know, from the general -- from McKesson or whomever we were ordering from.

BY MR. BARNES:

Q. So is it fair statement that between 2009 and 2014, the vast majority of opioid products going into the Giant Eagle pharmacies were coming from McKesson?

A. I don't -- I don't recall what the specific formulary for the controls that were at the HBC warehouse were, but my assertion is the minority of them came from the HBC warehouse.

Q. Well, you know most opioids are Schedule IIs and always have been Schedule IIs; correct?

A. In my definition, when you say opioid, I'm including combination drugs. We got zero Schedule IIs from the warehouse.

Q. And were opioids small or a large percentage of what the warehouse was doing, sending to the pharmacies?

A. The HBC warehouse?

Q. Yes.

A. It was a small percentage. Like I say, I can't recall the exact NDCs that were in the warehouse, but even in our overall dispensing, it's a small number, small percentage.

Q. This Exhibit 13, number (B)(4) talks about location of the premises. Were all these Giant Eagle pharmacies inside Giant Eagle grocery stores?

A. Yes, with the exception of the examples that I spoke to the gentleman about earlier. There was two independently-owned grocery stores in the Cleveland market that we had Giant Eagle pharmacies in.

Q. Those were transitioned then to Giant Eagle stores?

A. They were just -- no. They never transitioned to Giant Eagle stores. We just took the pharmacies out.

Q. But being inside of a grocery store, is that a level of control that you consider as part of the security analysis?

A. Not only were they delivered to a store, but they were in cases where the pharmacy -- if there was a situation where the pharmacy wasn't open, they had to be delivered to a locked cage

within the store.

Q. Factor (B)(6) six talks about types of vaults and safes and other secure enclosures.

Did the pharmacies at least to your knowledge keep any controlled substances in locked secure locations?

A. Every drug in the pharmacy is in a locked location in the pharmacy, and that's the reason why the state Boards have you send in diagrams of physical barriers so every drug is protected that way. It doesn't matter if it's controlled or not. Narcotics inside of that locked pharmacy are in a locked safe or locked cabinet.

Q. Did the Ohio State Board of Pharmacy audit every store at least once per year?

A. I don't know what their frequency was. That sounds reasonable. If you would ask me how often I think, I would say once a year.

Q. Did anybody from the Ohio State Board of Pharmacy ever come to Giant Eagle to your knowledge and say, hey, you're not meeting those requirements?

A. No. In fact, we actually had a member of the state Board who worked for us.